Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)
Approved for use through xx/xx/200x. OMB 0651-00xx
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional): EQUUS-074Q

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on 3/31/06

Signature: Lisa Taylor

Typed or printed name: Lisa Taylor

Application Number	Filed
10/755,747	01/12/04

First Named Inventor: Ieon Chen

Art Unit	Examiner
3632	Anita M. King

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- [ ] applicant/inventor.
- [ ] assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- [X] attorney or agent of record. Registration number 28,497
- [ ] attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

Signature

Bruce B. Brunda
Typed or printed name

(949) 855-1246
Telephone number

03/31/2006
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

- [ ] *Total of 1 forms are submitted.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Ieon Chen	Confirmation No.	9631
Serial No.:	10/755,747	Art Unit:	3632
Filed:	January 12, 2004	Examiner:	Anita M. King
For:	AUTOMOTIVE GAUGE MOUNTING BRACKET WITH FRICTIONAL FIT APERTURES		

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Office Action dated December 2, 2005 in the above-identified Application, please consider this Pre-Appeal Brief Request for Review as follows:

This pre-appeal brief request for review is made under the pilot program pursuant to the notice issued by the PTO and the OG Notices of July 12, 2005.

In the Office Action the Examiner has rejected Claims 1,5 and 7-10 under 35 U.S.C. § 103(a) as unpatentable over US Patent No. 4,507,706 to Trexler Jr. (Trexler). In view of US Patent No. 5,702,0762 to Humber (Humber). Claims 3 and 6 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Trexler, combined with Humber, and in further view of US Patent No. 4,993,611 to Longo (Longo). Claim 4 was rejected under 35 U.S.C. as unpatentable over Trexler, combined with Humber, in further view of US Patent No. 3,603,551 to Peterson.

Claims 1,3 and 7-13 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over Applicant's admitted prior art (Figures 1 and 2) in view of US Patent No. 3,365,761 to Kalvig (Kalvig).

There is no motivation to modify the gauge mounting structure of Trexler to incorporate the pipe vibration dampers of Humber.

The Trexler reference discloses an automotive gauge mounting structure where the gauges are disposed in a panel having a plurality of apertures receiving the gauges. A pivotal housing is rotateable to a position rearward of the panel to receive and secure the gauges within the panel. More particularly, the gauges are retained in place as a consequence of the engagement of a mounting pin 18, which extends from the rear surface of the gauge, and engages in aperture and bracket combination 48 formed on a surface of the rotateable housing (see figures 1,2: column 3 lines 62-65). The gauge is not retained in place as a consequence of frictional engagement of the outer surface of the gauge to the panel or any other structure.

The Humber reference discloses a pipe vibration insulator that mounts to a sheet metal wall stud. The insulator includes resilient gripping segments which receive and secure a pipe to hold the pipe in place to absorb and dampen pipe vibrations.

The fields of automotive instrumentation and plumbing installations are widely disparate and non analogous. Applicant further submits that there is not identified motivation for one skilled in the automotive instrumentation field to look to plumbing accessories to devise an apparatus mount to automotive gauges to a dash board.

In support of the rejection, the Examiner has elevated automotive gauges to the genus of cylindrical bodies, to find commonality with the pipe insulator of Humber. The Examiner states: " It would have been obvious to one having ordinary skill in the art to have included the insulator as taught by Humber for the purpose of providing a means holding a cylindrical object such as a gauge rigidly in place and to accommodate different sized objects." [Office Action dated December 2, 2005, page 3]. No teaching, motivation or suggestion to combine the references is identified in any of the cited references. Nor does the Trexler reference even include any disclosure or suggestion for axially translating a gauge within the aperture to facilitate the retention of the gauge. Instead, in the Trexler reference the retention of the gauge is facilitated by axial engagement of the mounting pin through the housing, not any form of peripheral engagement between the gauge and the housing.

Moreover, the Trexler reference, as understood, is predicated upon axial movement of the gauge along a specific axis, so that the terminals and apertures that the connecting terminals and light receiving apertures formed on the gauge will axially mate with connectors and light bulbs spaced from the panel. Use of resilient members formed about the periphery of the gauge receiving aperture would presumably contribute to a

wobbling or lateral movement of the gauge, which would likely interfere with axial alignment of the gauge terminals and apertures with the corresponding connectors and lightbulbs. Indeed, present invention is directed to avoiding just such problems by a construction that allows connectors to be extended through the apertures, and connected to the gauge before the gauge is inserted into the apertures. As such, there is no need for a tedious job of trying to manipulate connections in the limited space behind the gauge after it is installed, or to require the use of bulky, pivotal housings, with preset connectors, as proposed in the Trexler reference. As such, the claimed invention is not properly viewed as an augmentation of the Trexler reference, but a completely different and far more elegantly simple approach then that suggested in the Trexler reference.

The Kalvig reference is directed to a device for retaining a "shaft-like member" by frictional engagement with an area formed of displaced segments. The reference is not directed to automotive gauges or vehicle interiors and there remains no suggestion to modify prior art automotive gauges application (Fig. 2,3) to incorporate the displaceable segments having recesses there between, as asserted in the claims). Indeed, the alleged motivation for such a combination appears to be little more then a statement that Applicant's invention provides a means for "easier installation". More particularly, the Examiner stated "it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the bracket APA (Fig. 1 and 2) to have included the displaceable segments and recesses as taught by Kalvig for the purpose of providing an alternate mechanically equivalent means for retaining the gauge within the bracket and for the purpose of providing means for an easier installation of the gauge within the aperture of the bracket". In essence, the motivation to so combine the references is drawn from the advantages and advantages associated with Applicant's

drawn from the advantages and advantages associated with Applicant's invention, i.e. to provide an easier installation as a gauge within the aperture of the bracket. Applicant submits that such motivation should not be drawn from Applicant's invention and is otherwise not found in the cited prior art. As such, Applicant submits that the combination of references is not supported by either an express or implicit showing of motivation to modify the prior art described in the present application, or supported by findings related thereto. *In* re *Dembiczak*, 50 USPQ2d 1614, 1617 (Fed Cir. 1999), *In re Kotzab*, 55 USPQ2d 1313, 1317 (Fed Cir. 2000).

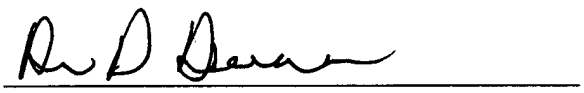
For the purposes of the present expedited appeal, Claims 3,4 and 6 are believed to be patentably distinct on the same grounds asserted in relation to the Claims discussed above.

In view of the foregoing, Applicant requests that the rejection of the Claims be reversed.

If any additional fee is required, please charge Deposit Account Number 19-4330.

Respectfully submitted,

Date: March 31, 2006

By: 

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